

Message Text

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TO SECSTATE WASHDC IMMEDIATE 8242

C O N F I D E N T I A L SECTION 1 OF 2 USUN 5751

EXDIS

FOR THE SECRETARY FROM SENATOR PERCY AND SCHWEBEL

E.O. 11652: GDS

TAGS: UN, EGEN, UNCTAD

SUBJ: CERDS

1. SUMMARY: IN EXTENDED MEETING WITH RABASA THIS MORNING, WE MADE EXTENSIVE PROPOSALS FOR A COMPROMISE TO THE MEXICANS. THEY WERE PREPARED TO ACCEPT OUR CONCESSIONS BUT MAKE NONE OF THEIR OWN. NEVERTHELESS, WE ARE CONTINUING TO SEEK A SOLUTION UNTIL THE LAST MINUTE. END SUMMARY.

2. PURSUANT TO OUR UNDERSTANDING, SENATOR PERCY AND SCHWEBEL MET AT 8:00 AM WITH FONSEC RABASA AND AMBS GARCIA ROBLES AND GONZALEZ GALVEZ AT PARK LANE FOR ALMOST FOUR HOURS.

3. SCHWEBEL INITIALLY PROPOSED THAT IT BE AGREED TO ADOPT AT THIS UNGA SESSION ALL AGREED ARTICLES OF CHARTER, DEFERRING DISAGREED ARTICLES TO THE REVISION OF THE CHARTER WHICH MEXICO HAS ALREADY PROPOSED FOR THE 1975 SESSION OF THE UNGA. IN THAT EVENT, USG AND ITS ALLIES COULD VOTE FOR THE CHARTER; MEXICO COULD TREAT UNANIMOUS ADOPTION OF THE BULK OF THE CHARTER AS A VICTORY; AND THE REST COULD BE CAREFULLY NEGOTIATED IN 1975.

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4. RABASA RESPONDED THAT WOULD BE IMPOSSIBLE, BECAUSE

PRESIDENT ECHEVERRIA DOES NOT WANT A "CASTRATED CHARTER" AND A CHARTER WITHOUT ARTICLE 2, TREATING FOREIGN INVESTMENT, WOULD BE SUCH. THIS IS THE MOST CRITICAL ARTICLE, AND MEXICO HAD TO HAVE AN ARTICLE ON THIS SUBJECT. AND OTHERS OF THE GROUP OF 77 WOULD REFUSE TO DELETE PROVISIONS ON PRODUCERS' ASSOCIATIONS (WHICH MEXICO WOULD BE PREPARED TO DROP) AND COLONIALISM.

5. SENATOR PERCY THEN PRESENTED THE FOLLOWING PACKAGE OF AMENDMENTS, SAYING THAT HE DID SO WITHOUT CLEARANCE FROM HIS OWN, STILL LESS OTHER GROUP B, GOVERNMENTS. HOWEVER, HE WAS PREPARED TO FIGHT FOR ALL THESE CONCESSIONS TO THE G-77 IF MEXICO WOULD BE PREPARED TO PRESS THE G-77 TO ACCEPT THE ELEMENTS OF REASONABLE COMPROMISE HIS PROPOSAL CONTAINED. SENATOR PERCY'S PROPOSALS FOLLOW:

1. PREAMBULAR PARAGRAPH 4: (AMEND AS FOLLOWS:) "DECLARING THAT IT IS A FUNDAMENTAL PURPOSE OF THIS CHARTER TO DEVELOP A CODE OF CONDUCT AND RULES FOR THE ESTABLISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER, BASED ON EQUITY, SOVEREIGN EQUALITY, INTERDEPENDENCE, COMMON INTEREST AND CO-OPERATION AMONG ALL STATES, IRRESPECTIVE OF THEIR ECONOMIC AND SOCIAL SYSTEMS,"

2. PREAMBULAR PARAGRAPH 7 (ON COLLECTIVE ECONOMIC SECURITY): ACCEPT THIS PARAGRAPH AS IT IS IN THE GROUP OF 77 DRAFT.

3. FINAL PREAMBULAR PARAGRAPH: (AMEND AS FOLLOWS:) "THE GENERAL ASSEMBLY SOLEMNLY ADOPTS THE PRESENT CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES".

4. CHAPTER I: IN THE FIRST SENTENCE, ACCEPT "SHALL", AS THE DRAFT OF THE GROUP OF 77 PROPOSES.

5. CHAPTER I(F): ACCEPT THE GROUP OF 77 PROPOSAL: "PEACEFUL CO-EXISTENCE."

6. CHAPTER I (I): SUBSTITUTE THE WORD "RENUNCIATION" FOR "REMEDIYING"; OTHERWISE ACCEPT THE GROUP OF 77 DRAFT AS IT IS.

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7. CHAPTER II, ARTICLE 2: (AMEND AS FOLLOWS:)

"1. ACCEPT THIS SUBPARAGRAPH AS IT IS IN THE GROUP OF 77 DRAFT.

"2. EACH STATE HAS THE RIGHT, IN CONFORMITY WITH ITS INTERNATIONAL OBLIGATIONS:
(A) TO REGULATE AND EXERCISE AUTHORITY OVER FOREIGN

INVESTMENT WITHIN ITS NATIONAL JURISDICTION IN ACCORDANCE WITH ITS LAWS AND REGULATIONS AND IN CONFORMITY WITH ITS NATIONAL OBJECTIVES AND PRIORITIES. A STATE MAY, BUT SHALL NOT BE UNLAWFULLY COMPELLED, TO GRANT PREFERENTIAL TREATMENT TO FOREIGN INVESTORS.

(B) ACCEPT THIS SUBPARAGRAPH AS IT IS FOUND IN THE GROUP OF 77 DRAFT.

(C) TO NATIONALIZE, EXPROPRIATE OR TRANSFER OWNERSHIP OF FOREIGN PROPERTY IN WHICH CASE FAIR AND APPROPRIATE COMPENSATION IN THE LIGHT OF ALL RELEVANT CIRCUMSTANCES SHALL BE PAID BY THE STATE TAKING SUCH MEASURES. IN ANY CASE WHERE THERE IS CONTROVERSY, LOCAL REMEDIES SHALL BE EXHAUSTED, UNLESS IT IS FREELY AND MUTUALLY AGREED BY ALL PARTIES CONCERNED THAT OTHER PEACEFUL MEANS BE SOUGHT ON THE BASIS OF THE SOVEREIGN EQUALITY OF STATES AND IN ACCORDANCE WITH THE PRINCIPLES OF FREE CHOICE OF MEANS."

8. CHAPTER II, ARTICLE 3: ACCEPT THIS PROVISION AS IT IS IN THE GROUP OF 77 DRAFT.

9. ARTICLES 4 AND 28: AMEND THESE ARTICLES TO REVERT TO THE PRECISE TERMS OF THE "BRILLANTES FORMULA" PREVIOUSLY AGREED TO BY ALL EXCEPT THE SOCIALIST GROUP.

10. ARTICLE 5: DELETE THIS ARTICLE IN ITS ENTIRETY.

11. ARTICLE 6: (AMEND THE SECOND SENTENCE OF THIS PARAGRAPH AS PROPOSED IN THE GROUP OF 77 DRAFT TO READ AS FOLLOWS:) "ALL STATES SHARE THE RESPONSIBILITY TO PROMOTE THE REGULAR FLOW OF AND ACCESS TO ALL GOODS,

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AGRICULTURAL AND INDUSTRIAL RAW MATERIAL SUPPLIES AND COMMERCIAL, TRADED AT STABLE, RENUMERATIVE AND EQUITABLE PRICES, THUS CONTRIBUTING TO THE EQUITABLE DEVELOPMENT OF THE WORLD ECONOMY, TAKING INTO ACCOUNT, IN PARTICULAR, THE INTERESTS OF DEVELOPING COUNTRIES."

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12. ARTICLE 16: DELETE THIS ARTICLE. (HOWEVER, SENATOR PERCY WOULD BE PREPARED TO ACCEPT A REFERENCE AT SOME APPROPRIATE POINT IN THE CHARTER CONDEMNING COLONIALISM, APARTHEID, RACIAL DISCRIMINATION AND ALL FORMS OF FOREIGN AGGRESSION.)

(BEGIN BRACKETS) CHANGES IN OR DELETION OF SUBSEQUENT ARTICLES REMAIN TO BE DISCUSSED. (END BRACKETS)

6. RABASA EXPRESSED APPRECIATION AND SAID THAT SENATOR PERCY'S PROPOSALS CONTAINED REAL CONCESSIONS. HOWEVER, THE PERCY VERSION OF ARTICLE 2 WOULD BE A PROBLEM. IN REPLY TO RABASA'S QUESTION, AMB GARCIA ROBLES SAID THAT IT WOULD BE IMPOSSIBLE TO SELL AN ARTICLE 2 CONTAINING REFERENCE TO "INTERNATIONAL OBLIGATIONS" AND "FAIR" COMPENSATION TO THE G-77. IN FACT, HE HIMSELF WOULD NOT ACCEPT THESE PROVISIONS.

7. SENATOR PERCY SAID HE WAS SURPRISED TO HEAR THAT MEXICO COULD REFUSE TO AFFIRM ITS INTERNATIONAL OBLIGATIONS. HE WAS SURE SOME OTHER MEMBERS OF THE G-77 ARE PREPARED TO DO SO, SUCH AS IRAN, AND THIS HAS BEEN DIRECTLY TOLD TO US. HE HOPED THAT THIS COMPROMISE COULD SELL, BUT IF IT WERE REFUSED, HE COULD NOT AGREE TO FONSEC RABASA'S SUGGESTION THAT THE USG VOTE AGAINST AN OBJECTIONABLE ARTICLE 2 WHILE ABSTAINING ON THE CHARTER AS A WHOLE. SUCH AN ARTICLE WOULD HURT THE INTERESTS OF THE DEVELOPING WORLD BY DISCOURAGING THE FLOW OF CAPITAL THEY DESPERATELY

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NEED. HIS RECOMMENDATION IN THAT EVENT TO THE SECRETARY WOULD BE FOR A NEGATIVE VOTE ON THE WHOLE CHARTER.

8. IT WAS FINALLY AGREED THAT THE SENATOR'S AMENDMENTS

WOULD BE PASSED IN WRITING, AD REFERDUM AND WITHOUT COMMITMENT, TO THE MEXICANS; THAT WE WOULD DISCUSS THEM WITH OUT ALLIES; AND THAT MEXICO WILL PUT THEM TO THE G-77. BUT WE WERE LEFT IN LITTLE DOUBT THAT, HAVING DONE, ACCORDING TO YOUR EXPRESS INJUNCTION, "OUR DAMNDEST", ONCE MORE OUR COMPROMISES WILL BE REJECTED.

9. SENATOR PERCY OFFERED TO MEET WITH IRAN, ALGERIA, NIGERIA, SRI LANKA OR ANY GROUP REPRESENTATIVE OF THE G-77 MEXICO WISHED TO GATHER. THIS OFFER WAS NOT TAKEN UP.

10. WE HAVE SEPARATELY HEARD THAT, IN YESTERDAY'S MEETING OF THE G-77, HOVEYDA (IRAN), PURSUANT TO HIS ASSURANCES TO SENATOR PERCY, CALLED FOR MODERATING AMENDMENTS, BUT THAT GARCIA ROBLES OF MEXICO WAS THE FIRST TO QUASH THAT APPROACH. IN TODAY'S MEETINGS, THE MEXICANS ATTRIBUTED THE FAILURE OF HOVEYDA'S EFFORTS TO IRAQ AND UPPER VOLTA.

11. AMB FERGUSON WILL BE MEETING WITH CHAIRMAN OF SECOND COMMITTEE (IRAQ) AND WILL BE REPORTING SEPTEL.
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